

## **The complaint**

Miss B complains that Nationwide Building Society closed her account and registered a marker at CIFAS, the national fraud database.

## **What happened**

Nationwide wrote to Miss B in August 2019 to say that her account would be closed. She found out that it had registered a CIFAS marker. She says she wasn't able to open an account elsewhere and says that she hasn't been involved in any fraud.

Nationwide said that it had received a report of fraudulent funds paid into her account. All of that money was withdrawn and there was a small overdraft remaining. So, it wouldn't remove the CIFAS marker.

Our investigator didn't recommend that the complaint be upheld. He said that:

- Miss B had said she had lost her card in the summer of 2019 and wasn't using her account. She hadn't given a consistent explanation of whether her PIN had been written down or not. And she had said at one time that when she had written it down it had been incorrect.
- Access to online banking was set up on her account on 21 July 2019. That had required a one-time passcode sent to the email account registered since 2017 to be entered correctly and the answers to memorable questions given. New payees had been set up which required her card and PIN.
- A credit of over £13,000 was paid in on 26 July 2019 and quickly moved out to the existing payees. There was a cash withdrawal and some payments were pre authorised and resulted in the overdraft when applied to her account.
- There was no explanation of how an unknown third party had obtained Miss B's details, and which would have required access to her email account. Although she said she had been approached on social media about making money through the use of her account details she insisted she hadn't done so.
- Nationwide made a commercial decision to close her account and there were sufficient grounds for the marker at CIFAS to be registered.

Miss B, who is represented in this complaint, did not agree. She wanted a review of what happened and hadn't been told about the fraudulent credit by Nationwide. She is innocent and doesn't know anything about the fraud. Her representative said that they were looking for any more information including the conversation on social media. Miss B needs an account elsewhere and believed that this marker is affecting her ability to obtain one.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I need to consider whether the report to CIFAS was made fairly. On this point, Nationwide needs to have more than a suspicion or concern. It has to show it had reasonable grounds to

believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

I don't have any new evidence to consider. I won't be able to say *exactly* what happened but am considering what is *most likely*. Our investigator has set out the security information relating to Miss B that would be required to register for online banking access and set up the payees. I appreciate this happened in July 2019 after she had the account for some time. But it seems to me that this was done in preparation for the fraudulent money to be paid in. There is no evidence her email account had been hacked. Miss B says she had applied for a new bus pass that she lost at the time she lost her card. But there was no report made to Nationwide of the loss of her card. And she has been inconsistent about how her PIN was stored.

Having balanced all the information I find that Miss B either used or allowed her account to be used to receive this money. I don't find any plausible explanation for how an unknown third party could have done so. So, she was a witting participant. This finding means that she didn't necessarily have to know about how the fraudulent credit was obtained but that she allowed her account to be used for purposes she couldn't reasonably think were legitimate.

Nationwide says that it applied the CIFAS marker because Miss B received fraudulent funds into her account. So, I've looked at whether Nationwide was fair to apply the marker, based on the evidence it had, and the investigation it carried out. CIFAS guidance says the business must have carried out checks of sufficient depth to meet the standard of proof set by CIFAS. This essentially means that Nationwide needs to have enough information to make a formal report to the police. And that any filing should be for cases where there are reasonable grounds to believe fraud or financial crime has been committed, rather than mere suspicion.

Having reviewed Miss B's account of events and the evidence Nationwide has provided, I'm satisfied that Nationwide had sufficient evidence for the CIFAS marker to be recorded. In coming to this view, I've taken into account the following reasons:

- Miss B received fraudulent funds into her account and didn't report this to Nationwide at the time.
- She allowed the use of her account in this way and so was in control of who had the benefit of this money.
- Nationwide had grounds to believe that Miss B had knowingly been involved in the dispersal of fraudulently obtained funds based on the evidence it had.

I'm afraid I don't have a reasonable basis to require Nationwide to do anything further and I know that Miss B and her representative will be very disappointed by this.

## **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 8 December 2020.

Michael Crewe  
**Ombudsman**